IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

REVIEW PETITION NO. 1 OF 2007
IN
WRIT PETITION NO. 6921 OF 2006

Vishnu Trimbak Moule & ors.... Petitioners

versus

Popal Trimbak Moule & ors..... Respondents.

Mr. N.V.Walawalkar Sr. adv. with Amit Borkar for applicant/petitioners.
Mr. P.N. Karlekar for Respondent no.1.
Mr. Milind Sathaye for Respondent nos. 2 and 3.

CORAM; A.P. DESHPANDE, J.
DATED; 29TH JUNE, 2007

P.C.;
1. By an order dated 8-11-2006 I summarily dismissed writ petition No.6921/06. The writ petition came to be dismissed in view of section 22-E of the Legal Services Authorities Act 1987. By the present Review Petition, it is submitted by the applicant that section 22-E was inserted by an amendment vide Act No.37 of 2002 which has come into force with effect from 11-6-2002. It is then submitted that section 22-E is not applicable as the same was not in the statute book at the relevant point of time. In this view of the matter Review Petition is allowed. The impugned order passed by this court dated 8-11-2006 is recalled as it was not brought to the notice of the court that section 22-E has no application to the

present case.

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1. Writ petition is restored, and taken up for final hearing by consent of parties.

2. The parties to the writ petition are near relations in as much as the petitioner no.1 and respondent no.1 are real brothers. The respondent nos.1 to 3 filed Special Civil Suit No. 89/01 in the Court of Civil Judge, Senior Division, Nashik against the present petitioners so also against respondent no.4 (respondent no.4 is original defendant no.6 whereas the present petitioners are defendant nos. 1

to 5). A settlement was arrived at between the present petitioners and respondent nos. 1 to 3 herein, and under the compromise the dispute,to the extent it relates to the plaintiffs and the defendants 1 to 5, came to be resolved by a settlement and it was further agreed that the suit will proceed only against the original defendant no.6. In view of the settlement reached by the parties, an order has been passed by the trial court on 21-10-2001. The trial court has also passed an award under the provisions of the Legal Services Authorities Act 1987. Belatedly after a lapse of about four and a half years the present petitioner moved an application before the CJSD, Nashik in Civil Suit bearing no. 89/01 which was partly disposed of in terms of compromise on 21-10-2001. In the said application, the petitioners prayed that the order of dismissal of the suit by way of compromise be recalled. The trial court has rejected the said application by holding that section 22-E of the Legal Services Authorities Act grants finality to an award passed by the Lok Adalat and the same has a binding effect on the parties to the settlement. It is this order passed by the trial court which is challenged by filing instant writ petition.

3. Initially I had dismissed the writ petition by an

order dated 8-11-2006 in view of the provisions of sec. 22-E of the Legal Services Authorities Act as it was not brought to my notice that the said provision has been introduced by an amendment by an Act 37 of 2002 with effect from 11-6-2002. On being appraised

of the fact that Chapter 6-A has been introduced by an amendment with effect from 11-6-2002, I allowed the review petition and restored the writ petition and thereafter it is taken up for hearing.

4. Section 21 regulates the compromise or settlement arrived at before the Lok Adalat. Section 21 reads thus:

> **Award of Lok Adalat:**
>
> **(i) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub section (1) of section 20, the court fee paid in such case shall be refunded in the manner provided under the Court Fees Act 1870.**

> **(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.**

Sub section 2 of section 21 provides that every award made by Lok Adalat shall be final and binding on all the parties to the dispute and no appeal shall lie to any court against the award. In the present case the award has been made by Lok Adalat and hence the provisions of sub section 2 of section 21 operates with full vigor. It is relevant to note that sub section 2 grants finality and binds the parties to the dispute (settlement) and none of the said parties can prefer any appeal against the said award.

5. Chapter VIA has been inserted by an amending act no. 37 of 2002 and the said chapter makes a provision for establishment of Permanent Lok Adalats, comprise of cases by Permanent Lok Adalats, the procedure to be followed by Permanent Lok Adalats and lastly it provides finality to the awards passed by the Lok Adalats. Section 22E reads thus:

> **" Award of Permanent Lok Adalat to be final:-**

(1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.

(2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.

(4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

(5) The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

6. Taking assistance from the phraseology used in section 22E, the learned counsel appearing for the

petitioner tries to make a distinction between section 22E on one hand and section 21(2) on the other hand. It is submitted that sub section (4) of section 22E lays down that every award made by the Permanent Lok Adalat shall be final and shall not be called in question in any original suit, application or execution proceeding. The submission is that there is no such provision in section 21(2) of the Act and hence it is permissible for a party to make an application in the original suit, as it is not expressly barred by section 21(2) of the Act. Perusal of section 21(2) makes it amply clear that an award passed by the Lok Adalat has been given finality and the same cannot be questioned by filing an appeal before any court. The finality attached to an award passed by Lok Adalat under section 21(2) is equal to the finality given to an award passed by Lok Adalat, though the amended section which deals with award passed by Permanent Lok Adalat states the samething in different words and with emphasis. Just because different phraseology is used in section 21(2) and section 22E of the Act, both the sections go to serve the same purpose i.e. attaching finality to the award passed either by Lok Adalat or the Permanent Lok Adalat. What is already stated in section 21(2) in relation to the award of Lok Adalat has been restated with emphasis in different words and elaborated in

section 22E. Just because sub section (4) of section 22E specifically prohibits calling in question of an award made by Permanent Lok Adalat in any original suit, application or execution proceeding, the same does not by implication permit calling an award in question passed by Lok Adalat under section 21(2) of the Act. So far as the binding nature of the award and finality attached thereto, there is no difference in section 21(2) and section 22E though the language used in the two sections is different. In my view, the object sought to be achieved is loud and clear that the award passed by Lok Adalat or Permanent Lok Adalat shall be final and binding and shall not be called in question either by filing an application in the suit or by filing an appeal or in any other manner. Hence I find no merit in the submission advanced by the learned counsel for the petitioner. Thus writ petition fails and is summarily dismissed.

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